

KAZEROUNI LAW GROUP, APC
Abbas Kazerouni, Esq. (SBN: 249203)
ak@kazlg.com
Gouya Ranekouhi, Esq. (SBN: 288267)
gouya@kazlg.com
245 Fischer Avenue, Unit D1
Costa Mesa, CA 92626
Telephone: (800) 400-6808
Facsimile: (800) 520-5523

[ADDITIONAL PLAINTIFF'S COUNSEL ON SIGNATURE LINE]

Attorneys for Plaintiff,
Pooria Inalou

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**POORIA INALOU, individually
and on behalf of all others
similarly situated,**

Plaintiffs,

v.

CONTEXTLOGIC, INC.

Defendant.

Case No.:

CLASS ACTION

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF PURSUANT
TO THE TELEPHONE CONSUMER
PROTECTION ACT, 47 U.S.C. § 227,
ET SEQ.**

JURY TRIAL DEMANDED

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INTRODUCTION

1. POORIA INALOU (“Plaintiff”), individually, and on behalf of all others similarly situated, brings this Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of CONTEXTLOGIC, INC. (“Defendant”), in negligently and/or intentionally contacting Plaintiff on Plaintiff’s cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., (“TCPA”), thereby invading Plaintiff’s privacy. Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.
2. The TCPA was designed to prevent calls like the ones described within this complaint, and to protect the privacy of citizens like Plaintiff. “Voluminous consumer complaints about abuses of telephone technology – for example, computerized calls dispatched to private homes – prompted Congress to pass the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).
3. In enacting the TCPA, Congress intended to give consumers a choice as to how creditors and telemarketers may call them, and made specific findings that “[t]echnologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11. Toward this end, Congress found that:

[b]anning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

Id. at § 12; see also *Martin v. Leading Edge Recovery Solutions, LLC*, 2012

1 WL 3292838, at* 4 (N.D. Ill. Aug. 10, 2012) (citing Congressional findings
2 on TCPA's purpose).

3 4. Congress also specifically found that "the evidence presented to the
4 Congress indicates that automated or prerecorded calls are a nuisance and an
5 invasion of privacy, regardless of the type of call...." *Id.* at §§ 12-13. *See*
6 *also, Mims*, 132 S. Ct. at 744.

7 5. As Judge Easterbrook of the Seventh Circuit recently explained in a TCPA
8 case regarding calls to a non-debtor similar to this one:

9 The Telephone Consumer Protection Act ... is well
10 known for its provisions limiting junk-fax transmissions.
11 A less-litigated part of the Act curtails the use of
12 automated dialers and prerecorded messages to cell
13 phones, whose subscribers often are billed by the minute
14 as soon as the call is answered—and routing a call to
15 voicemail counts as answering the call. An automated
16 call to a landline phone can be an annoyance; an
17 automated call to a cell phone adds expense to
18 annoyance.

19 *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012).

20 6. The Ninth Circuit recently affirmed certification of a TCPA class action
21 remarkably similar to this one in *Meyer v. Portfolio Recovery Associates,*
22 *LLC*, __ F.3d __, 2012 WL 4840814 (9th Cir. Oct. 12, 2012).

23 JURISDICTION AND VENUE

24 7. This Court has federal question jurisdiction because this case arises out of
25 violation of federal law. 47 U.S.C. §227(b); *Mims v. Arrow Fin. Servs., LLC*,
26 132 S. Ct. 740 (2012).

27 8. Venue is proper in the United States District Court for the Central District of
28 California pursuant to 18 U.S.C. § 1391(b) because Plaintiff resides in this
judicial district, the harm to Plaintiff occurred in this judicial district, and

1 Defendant is subject to personal jurisdiction in the County of Los Angeles,
2 State of California because it conducts business there.

3 **PARTIES**

4 9. Plaintiff is, and at all times mentioned herein was, a citizen and resident of
5 the County of Los Angeles, City of Glendale, State of California. Plaintiff
6 is, and at all times mentioned herein was, a “person” as defined by 47 U.S.C.
7 § 153 (10).

8 10. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and
9 at all times mentioned herein was, a corporation whose primary corporate
10 address is in the State of Delaware, with its principle place of business and
11 headquarters located in San Francisco, California. Defendant is, and at all
12 times mentioned herein was, a corporation and is a “person,” as defined by
13 47 U.S.C. § 153 (10). Defendant provides an online shopping platform to
14 hundreds of thousands of consumers. Plaintiff alleges that at all times
15 relevant herein Defendant conducted business in the State of California and
16 in the County of Los Angeles, and within this judicial district.

17 **FACTUAL ALLEGATIONS**

18 11. At all times relevant, Plaintiff was a citizen of the State of California.
19 Plaintiff is, and at all times mentioned herein was, a “person” as defined by
20 47 U.S.C. § 153 (10).

21 12. Defendant is, and at all times mentioned herein was, a Delaware corporation
22 and a “person,” as defined by 47 U.S.C. § 153 (10).

23 13. At all times relevant Defendant conducted business in the State of California
24 and in the County of Los Angeles, within this judicial district.

25 14. Defendant utilizes bulk SPAM text messaging, or SMS marketing, to send
26 unsolicited text messages, marketing and advertising Defendant’s product,
27 Wish (www.wish.com), an online shopping service. These texts advertise
28

1 Defendant's product's website and links to the purchase of the mobile
2 application for Defendant's product on mobile devices.

3 15. On or about February 5, 2014, at approximately 8:52 p.m. (PST), Defendant
4 sent an unsolicited text message to Plaintiff's cellular telephone ending in
5 "0909." This text message, read:

6 "Afshin Shajari wants you
7 to get this item right now
8 [http://www.wish.com/i/
9 UvMU_htNjHfaRXqg](http://www.wish.com/i/UvMU_htNjHfaRXqg)"

10 16. Defendant used SMS¹ "943-59" to send this unsolicited text message to
11 Plaintiff's cellular telephone.

12 17. According to Defendant's website at <http://www.wish.com/company>,
13 Defendant's products and services are marketed as a "disruptive social
14 platform to discover, collect, and share products with your friends" through
15 social media available both online and via mobile devices.

16 18. According to the website of Formation 8 at
17 <http://formation8.com/p/contextlogic/>, a venture capital firm and one of
18 Defendant's investors, "Contextlogic is the creator of wish.com and next-
19 generation algorithms for online advertising and context discovery. The
20 company uses proprietary machine learning and natural-language processing
21 to reach relevant consumers more effectively."

22 19. According to Defendant's LinkedIn page at
23 <http://www.linkedin.com/company/contextlogic>, Defendant represents that
24 "our flagship product, Wish (www.wish.com), improves online merchandise
25 discovery by helping users find the products they love, share these products
26

27 ¹ The term "Short Message Service" or "SMS" is a messaging system that allows
28 cellular telephone subscribers to use their cellular telephones to send and receive
short text messages.

1 with friends, score great prices, and unlock exclusive rewards. Wish was
2 launched in November 2011 and already has over 17 million registered users
3 and 400k active daily users, making it one of the top 10 mobile applications
4 in both the Android shopping and iPhone Lifestyle categories. Using
5 Google search level intent data, Wish optimizes the consumer shopping
6 experience by effectively connecting users to merchants with relative
7 products.”

8 20. Defendant’s unsolicited SMS text messages solicits the consumer to click
9 on the provided link which leads to Defendant’s website. Defendant’s text
10 solicits consumers to join wish.com to make online purchases as part of
11 Defendant’s product of online shopping services.

12 21. The link in the text message connects the consumer either to Defendant’s
13 product’s website which solicits the consumer to join and sign up as a
14 member, or to the mobile application store to promote the purchase or
15 download of the mobile application, which then solicits and promotes “in-
16 app purchases.”

17 22. Plaintiff was at no time given an option to “opt-out” of receiving future
18 unsolicited text messages from Defendant.

19 23. At no time did Plaintiff provide Plaintiff’s cellular phone number to
20 Defendant through any medium, nor did Plaintiff consent to receive such an
21 unsolicited text message.

22 24. Plaintiff has never signed-up for, and has never used, Defendant’s services
23 or products, and has never had any form of business relationship with
24 Defendant.

25 25. Through the unsolicited SPAM text message, Defendant contacted Plaintiff
26 on Plaintiff’s cellular telephone regarding an unsolicited service via an
27 “automatic telephone dialing system,” (“ATDS”) as defined by 47 U.S.C. §
28 227(a)(1) and prohibited by 47 U.S.C. § 227(b)(1)(A).

1 26.This ATDS has the capacity to store or produce telephone numbers to be
2 called, using a random or sequential number generator.

3 27.The telephone number Defendant texted was assigned to a cellular telephone
4 service for which Plaintiff incurs a charge for incoming calls and texts
5 pursuant to 47 U.S.C. § 227(b)(1).

6 28.This text message constituted a call that was not for emergency purposes as
7 defined by 47 U.S.C. § 227(b)(1)(A)(i).

8 29.Plaintiff did not provide Defendant or its agent prior express consent to
9 receive text messages, including unsolicited text messages, to his cellular
10 telephone, pursuant to 47 U.S.C. § 227 (b)(1)(A).

11 30.The unsolicited text message by Defendant, or its agent, violated 47 U.S.C. §
12 227(b)(1).

13 CLASS ACTION ALLEGATIONS

14 31.Plaintiff brings this action on behalf of himself and on behalf of all others
15 similarly situated (“the Class”).

16 32.Plaintiff represents, and is a member of the Class, consisting of:

17 All persons within the United States who were sent a text
18 message substantially similar or identical to the text
19 message described in Paragraph 15 of the Complaint by
20 Defendant and/or its agent within the four years prior to
the filing of the Complaint.

21 33.Defendant and its employees or agents are excluded from the Class.
22 Plaintiff does not know the number of members in the Class, but believes the
23 Class members number in the tens of thousands, if not more. Thus, this
24 matter should be certified as a Class action to assist in the expeditious
25 litigation of this matter.

26 34.Plaintiff and members of the Class were harmed by the acts of Defendant in
27 at least the following ways: Defendant, either directly or through its agents,
28 illegally contacted Plaintiff and the Class members via their cellular

1 telephones by using an unsolicited SPAM text message/s, thereby causing
2 Plaintiff and the Class members to incur certain cellular telephone charges or
3 reduce cellular telephone time for which Plaintiff and the Class members
4 previously paid, and invading the privacy of said Plaintiff and the Class
5 members. Plaintiff and the Class members were damaged thereby.

6 35. This suit seeks only damages and injunctive relief for recovery of economic
7 injury on behalf of the Class, and it expressly is not intended to request any
8 recovery for personal injury and claims related thereto. Plaintiff reserves the
9 right to modify or expand the Class definition to seek recovery on behalf of
10 additional persons as warranted as facts are learned in further investigation
11 and discovery.

12 36. The joinder of the Class members is impractical and the disposition of their
13 claims in the Class action will provide substantial benefits both to the parties
14 and to the court. The Class can be identified through Defendant's records or
15 Defendant's agents' records.

16 37. There is a well-defined community of interest in the questions of law and
17 fact involved affecting the parties to be represented. The questions of law
18 and fact to the Class predominate over questions which may affect
19 individual Class members, including, but not limited to, the following:

- 20 a) Whether, within the four years prior to the filing of this Complaint,
21 Defendant or its agents sent any unsolicited text message/s (other than
22 a message made for emergency purposes or made with the prior
23 express consent of the called party) to a Class member using any
24 automatic dialing and/or SMS texting system to any telephone number
25 assigned to a cellular phone service;
- 26 b) Whether Plaintiff and the Class members were damaged thereby, and
27 the extent of damages for such violation; and
28

1 c) Whether Defendant and its agents should be enjoined from engaging
2 in such conduct in the future.

3 d) Whether Plaintiff and the Class are entitled to any other relief.

4 38.As a person who received at least one unsolicited SPAM text message
5 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
6 typical of the Class. Plaintiff will fairly and adequately represent and protect
7 the interests of the Class in that Plaintiff has no interests antagonistic to any
8 member of the Class.

9 39.Plaintiff and the members of the Class have all suffered irreparable harm as
10 a result of the Defendant's unlawful and wrongful conduct. Absent a class
11 action, the Class will continue to face the potential for irreparable harm. In
12 addition, these violations of law will be allowed to proceed without remedy
13 and Defendant will likely continue such illegal conduct. Because of the size
14 of the individual Class member's claims, few, if any, Class members could
15 afford to seek legal redress for the wrongs complained of herein.

16 40.Plaintiff has retained counsel experienced in handling class action claims
17 and claims involving violations of the Telephone Consumer Protection Act.

18 41.A class action is a superior method for the fair and efficient adjudication of
19 this controversy. Class-wide damages are essential to induce Defendant to
20 comply with federal and California law. The interest of Class members in
21 individually controlling the prosecution of separate claims against Defendant
22 is small because the maximum statutory damages in an individual action for
23 violation of privacy are minimal. Management of these claims is likely to
24 present significantly fewer difficulties than those presented in many class
25 claims.

26 42.Defendant has acted on grounds generally applicable to the Class, thereby
27 making appropriate final injunctive relief and corresponding declaratory
28 relief with respect to the Class as a whole.

FIRST CAUSE OF ACTION

NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT

47 U.S.C. § 227 ET SEQ.

43.Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

44.The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

45.As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq., Plaintiff and The Class are entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

46.Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

KNOWING AND/OR WILLFUL VIOLATIONS OF THE

TELEPHONE CONSUMER PROTECTION ACT

47 U.S.C. § 227 ET SEQ.

47.Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

48.The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

49.As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq., Plaintiff and The Class are entitled to an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

1 50.Plaintiff and the Class are also entitled to and seek injunctive relief
2 prohibiting such conduct in the future.

3 **PRAYER FOR RELIEF**

4 Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and the Class
5 members the following relief against Defendant:

6 **FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF**
7 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- 8 • As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1),
9 Plaintiff seeks for himself and each Class member \$500.00 in statutory
10 damages, for each and every violation, pursuant to 47 U.S.C. §
11 227(b)(3)(B).
12 • Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such
13 conduct in the future.
14 • Any other relief the Court may deem just and proper.

15 **SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL VIOLATIONS OF**
16 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- 17 • As a result of Defendant's knowing and/or willful violations of 47 U.S.C.
18 § 227(b)(1), Plaintiff seeks for himself and each Class member \$1,500.00
19 in statutory damages, for each and every violation, pursuant to 47 U.S.C.
20 § 227(b)(3)(B).
21 • Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such
22 conduct in the future.
23 • Any other relief the Court may deem just and proper.

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TRIAL BY JURY

51. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: April 17, 2014

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ Gouya Ranekouhi, Esq.

ABBAS KAZEROUNIAN

GOUYA RANEKOUHI

ATTORNEYS FOR PLAINTIFF

[ADDITIONAL PLAINTIFF'S COUNSEL]

HYDE & SWIGART

Joshua B. Swigart, Esq. (SBN: 225557)

josh@westcoastlitigation.com

2221 Camino Del Rio South, Suite 101

San Diego, CA 92108

Telephone: (619) 233-7770

Facsimile: (619) 297-1022

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

Todd M. Friedman, Esq. (SBN: 216752)

tfriedman@attorneysforconsumers.com

369 S. Doheny Dr., #415

Beverly Hills, CA 90211

Telephone: (877) 206-4741

Facsimile: (866) 633-0228